

NOT INCLUDED IN  
BOUND VOLUMES

PHMc  
Daly City and Moss Beach, CA

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

SETON MEDICAL CENTER/SETON COASTSIDE

Employer

and

Case 20-RC-073334

NATIONAL UNION OF HEALTHCARE  
WORKERS (NUHW)

Petitioner

and

SEIU UNITED HEALTHCARE  
WORKERS-WEST (SEIU-UHW)

Intervenor

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board, by a three-member panel, has considered objections and determinative challenged ballots in an election held March 19, 2014, and the Acting Regional Director's report recommending disposition of them. The election was conducted pursuant to a Decision and Direction of Second Election.<sup>1</sup> The tally of ballots shows 279 for the Petitioner, 252 for the Intervenor, 19 against the participating labor organizations, and 15 challenged ballots, a sufficient number to affect the results.

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<sup>1</sup> 360 NLRB No. 49 (2014).

The Board has reviewed the record in light of the exceptions and briefs, has adopted the Acting Regional Director's findings and recommendations,<sup>2</sup> and finds that a certification of representative should be issued.

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<sup>2</sup> In adopting the Acting Regional Director's recommendation to sustain the challenges to the ballots of Melinda Adaya, Lyra Angay, Michelle Ornelas, Abbey Robles, Linda Tran, Monica Borowsky, Jesus Cayabyab and Derrick Veneziano, we agree with the Acting Regional Director that it is not necessary to open and count the ballots of Elsa Almendorez, Sonia Trujillo, Estela Abesames, Cara Carson, Jennifer Dickson, Beata Cogan and Katia Romero, as these ballots are no longer determinative. Thus, the revised tally of ballots shows 279 for the Petitioner, 252 for the Intervenor, 19 against participating labor organizations, and 7 challenged ballots.

The Intervenor filed 34 objections, alleging that conduct of the Employer, Petitioner, and a third party (California Nurses Association (CNA)), affected the results of the election. In the absence of exceptions, we adopt pro forma the Acting Regional Director's overruling of Objections 14, 27 and 34. In agreement with the Acting Regional Director, and for the reasons discussed below, we find that the evidence proffered in support of the Intervenor's remaining objections does not raise substantial and material issues of fact or law that warrant a hearing. In adopting the Acting Regional Director's recommendation to overrule these objections, however, we do not rely on his statements about the lack of witness cooperation and absence of an unfair labor practice complaint.

In adopting the Acting Regional Director's recommendation to overrule Objections 5-10, 13, 15 and 30, collectively alleging that the Employer promulgated campaign ground rules favoring the Petitioner and monitored protected union activity during the campaign, we find that the proffered evidence, even if credited, would show only that the Employer enforced the ground rules equally against the Intervenor, the Petitioner, and their respective agents. See *Nestle Co.*, 248 NLRB 732, 741 (1980) (objection overruled where the employer's enforcement of its no-solicitation, uniform, and jewelry rules equally affected both unions). With regard to Objection 30, alleging that the Employer permitted CNA "to campaign on work time, in work areas, and to use its bulletin board and access privileges to campaign for NUHW," we find that the proffered evidence fails to show that the Employer permitted or condoned CNA's campaign activity, and therefore any such activity would not warrant setting aside the election.

In adopting the Acting Regional Director's recommendation to overrule Objection 25, alleging that the Petitioner "kept lists of who voted, or created the impression of keeping a list of who voted," we rely on the absence of evidence that bargaining unit employees observed such conduct before casting their ballots. See *Chrill Care, Inc.*, 340 NLRB 1016, 1016 (2003) ("the Board generally does not find . . . list making coercive in the absence of evidence that employees knew their names were being recorded"). In adopting the Acting Regional Director's recommendation to overrule Objection 28, alleging that the Petitioner promised that eligible voters would "not have to pay initiation fees if they voted for NUHW," we find that the Intervenor failed to proffer evidence identifying an agent of the Petitioner who made the alleged promise. Finally, in adopting the Acting Regional Director's recommendation to overrule Objection 33, alleging that "[t]he [E]mployer, by its agents, campaigned for Petitioner," we note

## CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for National Union of Healthcare Workers (NUHW), and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time and per diem employees, and limited part-time employees employed by the Employer at its facilities located at 1900 Sullivan Avenue, Daly City, California (Seton Medical Center) and 600 Marine Blvd., Moss Beach, California (Seton Coastside) in the following classifications:

Bed Control Coord, Bed Control Lead, Central Serv Tech I, Central Serv Tech II, Lead Central Service Tech, Centralized Scheduler, Console Operator, Cyto Tech SR, Env Svc Tech, Env Svc Tech Lead, Hospital Attendant, Linen Service Worker, Nursing Asst I, Pre-Admissions Registrar, Pulmonary Function Tech, Radiology Tech Asst, Respiratory Care Aide, Secretary, SNF Staff RN (Coastside), Lead SNF Staff RN (Coastside), Unit Coordinator, Unit Coordinator Sr, Vascular Tech II, Waiter/Waitress, Admitting Coord, Anesthesia Tech, Anesthesia Tech Senior, Cardiology Tech, Cardiopulmonary Rehab Aide, Cath Lab. Service Tech, Cert Nursing Assistant, Client Service Rep, Clinical Lab Tech, Cook, Cyto. Tech, Data Entry Clerk, Dietary Clerk, Dietary Clerk II, Driver, Echo Tech I, Lead Echo Technician II, ER Tech, File Clerk, Film-File Clerk Lead, Food Service Aide, Lead Food Services, Histo Tech, SR Histo Tech NB, Instrument Tech, Inventory Clerk, Lab Asst I/Clerk, Lab Asst II/Phlebotomist, Lab Asst III/Phlebotomist + Process, Library Assistant, LVN, LVN Senior, Mail Clerk, Med Rec Clk II, Med Rec Clerk III; Med Transcriber, Lead Med Transcriber, Medical Assistant, Monitor Tech, MR I Tech, Lead MRI Tech/CT Tech, Neurology Tech, Nuc Med Asst, Nuc Med Tech, Admitting Officer Lead, Central Serv Aide Tech I, Central Serv Aide, Tech II, Central Supply Clerk, Cook Lead, Department Secretary, Dietary Tech, Histo Tech Lead, Host/Hostess, Housekeeping Aide, Housekeeping Aide Lead, Linen Room Worker, Med Rec Clk I, Med Rec Clk II/Med Rec Clinic Clerk, Nuc Med Tech Lead, Nursing Asst/Hosp Attendant/Pt Care Attd, OB Tech, PBX Operator, Radiation Therapist Lead, Receptionist/Information Clerk/Intermed Clerk, Registrar/Admitting Officer, RN Seton Coastside, Ultrasound Technician, Ultrasound Tech III Lead, Echo Tech II (RDMS), Office Assistant, Office Coord, Office Coordinator-WNHS, Office Coord, Senior Office Coordinator, Senior-WNHS, OR Attendant, OR Tech I, OR Tech II, OR Tech, Senior Pathology Asst, Patient Coordinator NB, Pharmacy Tech, Pharmacy Tech Sr, PT Aide, PT Asst, Rad Tech I, Rad Tech II, Rad Tech III, Rad Tech III Lead, Rad Tech IV, Rad Tech/CT Tech, Radiation

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the absence of any proffered evidence that employee Debra Amour, the purported supervisor who appeared in a flier encouraging support for the Petitioner, possessed any of the indicia necessary to establish supervisory status under Sec. 2(11) of the Act.

Therapist, Radiology Aide, Radiology Asst, RCP I (Unreg), RCP II (Reg), RCP III, Receptionist, Registrar, R.O.I. Tech, Restorative Aide (CNA), Restorative Aide (not CNA), Simulation Therapist, Staffing Clerk, Storekeeper, Transporter, Ultrasound Tech I, Ultrasound Tech II, Ultrasound Tech III; *excluding* all other employees, office clerical employees, professional employees, confidential employees, guards, and supervisors as defined in the Act.

Dated, Washington, D.C., November 2, 2015.

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Mark Gaston Pearce, Chairman

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Kent Y. Hirozawa, Member

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Lauren McFerran, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD